

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

**Document Title: Durham, North Carolina, Arrest Policies Project:
A Process Evaluation on Site April 1999**

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Document No.: 201877

Date Received: September 2003

Award Number: 98-WE-VX-0012

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Durham, North Carolina, Arrest Policies Project

**A Process Evaluation
On Site April 1999**

February 10, 2000

Prepared for
Durham Police Department
National Institute of Justice
Violence Against Women Office

Prepared by
Cheron DuPree

Introduction

The Grants to Encourage Arrest Policies Program encourages jurisdictions to implement mandatory or pro-arrest policies as an effective domestic violence intervention that is part of a coordinated community response. Congress appropriated funds for this program under the Violence Against Women Act (1994). The Program assumes that the arrest of a batterer will leverage the coercive and persuasive power of the criminal justice system to ensure victim safety and manage the behavior of abusive, violent offenders. Ensuring victim safety and offender accountability are the guiding principles underlying the Grants to Encourage Arrest Policies. The Violence Against Women Act directs that the Arrest Program funds be used to

- Implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs or pro-arrest program and policies for protective order violations;
- Develop policies and training programs in police departments and other criminal justice and tribal agencies to improve tracking of cases involving domestic violence;
- Centralize and coordinate police enforcement, prosecution, probation, parole or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, probation and parole officers or judges;
- Coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;
- Strengthen legal advocacy service programs for victims of domestic violence by providing complete information and support for a victim of domestic violence as the case against her abuser moves through the criminal justice system; and
- Educate judges and others responsible for judicial handling of domestic violence cases, in criminal, tribal, and other courts about domestic violence to improve judicial handling of such cases.

The Institute for Law and Justice, Inc. (ILJ) is conducting a national assessment of the Grants to Encourage Arrest Policies Program, which is funded by the National Institute of Justice. ILJ is using a three-stage methodology for this evaluation. First is an annual national assessment of all sites that will document the type and extent of projects funded. Second, a process evaluation of twenty sites will examine the process and problems associated with implementation of the project. And third, an impact evaluation of five to six sites will assess the

impact of the project on the agencies involved, victim well-being, offender accountability, and the community.

This report examines the activities of the Durham Police Department's Domestic Violence Unit—the early stages of the project, its current operations, and future plans. Relevant laws are discussed as are the project objectives, planning implementation, resources, inter-agency collaboration, and the information management system. Conclusions and recommendations are offered.

Project Environment

Durham, North Carolina, is approximately 98 square miles with a population of 172,004. The ethnic distribution of Durham is approximately 55 percent African-American, 45 percent Caucasian and is experiencing a growth in its Hispanic population. The neighboring cities of Raleigh (400,000) and Chapel Hill merge with Durham to create the Triangle Area. This area is home to numerous colleges and universities including the University of North Carolina at Chapel Hill, Duke University, and North Carolina Central University.

Durham Police Department

The Durham Police Department (DPD) has 474 sworn officers. The diversity in the area is reflected on the police department. The police chief has been at her post for two years and is credited with improving the reputation of the department. The new city manager is also considered very progressive and supports the efforts of the police department's Domestic Violence Unit.

The DPD has five bureaus: Executive Bureau, Uniform Patrol, Administrative Services, Investigative Services, and Community Services. Each of the four patrol districts has a crime area target team and a crime prevention liaison. The Administrative Services Bureau houses the Staff Services Division, Planning and Research, and Training. The Investigative Bureau Commander oversees the Organized Crime Division, Special Operations Division, and the Criminal Investigation Division (CID). CID has units for property crimes, homicide, violent crime, auto theft, youth/fraud, identification, and victim/witness assistance and DVU. DVU was placed under CID to enhance investigations of domestic violence cases and to coordinate

investigations of sexual assaults, child abuse, and any other crimes that are associated with domestic violence.

Domestic Violence Legislation

The City of Durham practices a pro-arrest policy. The police department views domestic violence as a crime that requires direct police intervention and a coordinated community response. The goal of an officer who responds to a domestic incident is to reduce the possibility of violence and threats toward the victim, and to conduct a thorough investigation. Domestic violence is defined in the Durham Police Department's General Order (4046 R-1) as "an incident involving a victim and a suspect who are intimate partners and the suspect does any of the following:

- Intentionally causes or attempts to cause bodily injury
- Places the victim in fear of bodily injury by the threat of force
- Commits a sexual assault
- Intentionally destroys real or personal property
- Commits domestic criminal trespass and
- Violates a valid domestic violence protective order."

Intimate partners include persons who are either current or former spouses, live or have lived together as if married, have a child in common, or had a dating relationship. This definition also applies to same sex relationships.

Whether or not an arrest is made, the officer should perform the following actions according to North Carolina General Statutes § 50B-5(a):

- Remain on the scene to preserve the peace while the victim removes such items as food, clothing, medication and other personal property as is reasonably necessary to enable the victim and any minor children to stay elsewhere.
- Transport the victim to appropriate facilities, such as hospitals, magistrate's office, and safe shelter, upon the request of the victim.
- When requests are made by a victim or a victim's advocate for police assistance in removing belongings or transportation sometime after an initial incident, officers may provide whatever assistance is reasonable and prudent.

- At a minimum, provide the victim with the responding officer's name, the incident report number (IR#), and a blank Code 11, the back of which contains important assistance information.

Durham County Domestic Violence Court

The Durham County Domestic Violence Court is in the Fourteenth Prosecutorial District and began in July 1997 with a grant from the Governors Crime Commission. The court is held three days per week and only handles misdemeanor cases. Prior to creation of the court, all misdemeanor cases were handled daily in a single session of District Court. Victims of domestic violence did not receive the level of service they needed, and perpetrators were not being held accountable in a consistent or effective manner.

The Domestic Violence Court in Durham has a full-time domestic violence prosecutor. A part-time retired judge presides over the court; an elected judge presides in his absence. The court victim advocate serves as a liaison with the Domestic Violence Unit to assist in the organization and preparation of cases. In addition, the advocate contacts victims to help them prepare for court and provides information about available services.

Sentences given in the Domestic Violence Court vary from supervised probation, completion of a batterer intervention program, and cost of court fees to no victim contact. The court averages 300 cases per month.

Support for the establishment of a Domestic Violence Court has been mixed. Defense attorneys aren't happy about the new court because domestic violence cases are no longer dropped, and they are forced to handle them. Some judges are still reluctant to preside in the court. However, there has been a great deal of community support and some good media coverage for the court.

Domestic Violence Policies

The Department's General Order outlines policies for initial response and investigation of domestic violence incidents, determining the primary aggressor, training and continuing education, and officer involved domestic incidents. The General Order states that supervisors will respond to domestic violence calls whenever possible to monitor the situation and provide assistance. When responding to these calls, the officer will

1. Restore order by separating the parties, assessing the injuries and the need for medical attention, and protecting the crime scene.
2. Interview all parties separately, preferably out of sight and hearing range of one another. Interview children in an age-appropriate manner.
3. Contact warrant control to determine if there are outstanding warrants, valid domestic violence protective orders, release conditions, and/or recent trespasses.
4. After initial investigation, determine if an arrest is appropriate.
5. Collect and record evidence. When visible bodily injury or property damage is apparent, officers should take color photographs of the injuries and/or property damage.
6. Prepare the appropriate domestic violence report in all cases in which domestic violence is alleged. Send copies of the report(s) and all other case-related reports to the Domestic Violence Unit.
7. Contact the on-call CID supervisor, through the chain-of-command, in the event a felony has occurred.

Primary Aggressor

The Department has specific guidelines for determining the primary aggressor. If the officer has probable cause to believe that both involved parties committed an offense, the officer will try to determine who is the primary aggressor. Arrest is the appropriate response only with respect to the primary aggressor. If the officer cannot determine the primary aggressor, arrest is not preferred for either party. However, officers are encouraged to use other means to defuse the situation and ensure the parties' safety.

The primary aggressor is the party more likely to initiate and continue the violence. The following are elements to consider when evaluating which person is the primary aggressor:

1. Evidence from the involved persons—injuries, statements, etc.
2. Evidence from witnesses of the domestic violence
3. Self-defense wounds—aggressor may have scratches on body or bite marks on chest, arms, or hands
4. Existence of a Domestic Violence Protective Order
5. Use or threatened use of weapons
6. Fear of retaliation by one party
7. Property destroyed by one party
8. Relative severity of injuries
9. Relative size of victim vs. suspect.

Probable Cause

Probable cause exists when the totality of facts and circumstances create a fair probability, not a certainty, that a crime has been committed and the person to be arrested probably committed that crime. Probable cause to arrest may be based solely upon information related by an apparently credible victim, even though corroborating evidence is not available at the time the arrest takes place. Officers should look for other evidence and other witnesses to the incident, including children, as a means of corroborating a victim's statement. Physical evidence is important in determining probable cause. If possible and feasible, the suspect should be questioned before an arrest is made concerning whether or not a crime was committed. A suspect's statements admitting part, or all, of an alleged violation of the law are important evidence for probable cause and as evidence in court. A victim's preference for or against arrest or a victim's willingness to appear in court are not factors in deciding whether or not probable cause exists.

Arrest Project Planning

In 1996, a watch commander with the Durham Police Department felt the problem of domestic violence needed to be addressed. Since police officers are the first point of contact for victims, it was logical that the police department should establish a specialized unit to combat the problem. Establishing a domestic violence unit would maximize victim protection and perpetrator accountability; investigation of domestic cases would be improved; the unit would promote a community-wide response to domestic violence; and interagency collaboration would improve for effective and timely victim assistance and offender prosecution.

The Captain of the Special Operations Division was consulted and assisted the watch commander in writing the initial grant. The goals and objective of the grant were developed with the assistance of the Orange/Durham Coalition for Battered Women, Inc. as well as the Durham District Attorney's Office. A grant writer with the police department wrote the continuation grant. The first grant award was for \$321,426 and the current grant, which ends February 2000, is for \$896,323.

Arrest Project Goals and Objectives

The overall goal of the Arrest Project in Durham is to ensure victim safety and offender accountability by conducting thorough police investigations on domestic violence cases and inter-agency collaboration. The objectives for the project are

- To ensure that domestic violence is treated as a crime by creating a specialized domestic violence unit to investigate all misdemeanor reports of domestic violence to ensure that the proper arrests are made by patrol officers.
- To generate valid data regarding domestic violence calls for service and prosecution rates.
- To collaborate with the Orange/Durham Coalition for Battered Women to help victims receive counseling and support to ensure victim safety.
- To assist the district attorney by compiling the necessary information and relaying it to the prosecutor in a timely manner.

The continuation grant expanded upon the previous goals. The expansion included

- Additional staff to conduct field response
- Addition of a Domestic Violence Community Response Coordinator, whose job is to facilitate communication and cooperation among many agencies, as an employee of the Coalition
- Expanding training sessions by unit personnel for law enforcement within Durham County.

The Partnership

The Orange/Durham Coalition for Battered Women is the only organization of its kind in the Durham area. Consequently, the Coalition became the non-profit partner for the police department. Although there is a cooperative effort between these agencies, there is little collaboration.

The Orange/Durham Coalition for Battered Women was established in 1976 with a grant from the Governor's Office and the North Carolina Council on the Status of Women. The Coalition was under the leadership of a YMCA board member and a community activist. The Coalition has evolved over the years to provide numerous services for battered women and their children.

The Coalition currently operates two shelters, one in Durham County, the other in Orange County. The Durham shelter has 12 beds; in FY98, 52 women stayed in the shelter and the average length of stay was 37 days. The shelter is exploring options that would get the community actively involved with helping the women in their community. Programs and services provided by the coalition include the following.

<i>24-Hour Crisis Line</i>	The Coalition provides domestic violence counseling and referrals 24 hours a day, 7 days a week to the Orange and Durham communities. Spanish speaking advocates are available. All calls are confidential. Since its existence, the hotline has received 3,139 calls.
<i>Emergency Shelter for Women & Children</i>	The Coalition provides safe and secure housing where women can escape violent environments. The following services are offered to shelter guests: <ul style="list-style-type: none"> • Goal setting and life planning guidance • Referrals and assistance in accessing community resources • Emergency food, transportation, and medication • Assistance in meeting legal, housing and employment needs • Information on the dynamics of abuse • Parenting and life skills education • Red Cross First Aid Training
<i>Counseling for Women</i>	The Coalition offers day and evening counseling for women in physically, mentally, sexually or verbally abusive relationships. Services, offered at various locations throughout the community, include: <ul style="list-style-type: none"> • Individual counseling • Support groups • Community outreach programs
<i>AWARE</i>	The Coalition and ADT security provide security alarms and necklace pendants to high risk domestic violence victims in Orange and Durham Counties.
<i>SafeCall & Safer Families</i>	The Coalition in collaboration with Cellular One and 360 Communications provides free cellular phones to Durham and Orange county victims in high-risk stalking and life threatening situations.
<i>Counseling for Children</i>	The Coalition offers programs that help children heal from the effects of domestic violence and grow and develop in healthy ways.
<i>Latina Services</i>	The Orange/Durham Coalition for Battered Women co-facilitates domestic violence workshops for human service providers who work with Latin clients.

Durham Domestic Violence Unit

Prior to Arrest Policies funding, no special attention was given to domestic violence incidents in Durham. Despite this, development of the DVU went relatively smoothly.

Implementation

During the first reporting period (March 1997-August 1997), the police department did not draw down any grant funds due to city administrative delays. However, during this time, a committee was set-up to select officers to work in the DVU; committee staff included the domestic violence prosecutor, the project director, representatives for the Orange/Durham Coalition on Domestic Violence, and the supervisor of the DVU. Approximately 20 officers applied for the positions. By June 30, 1997, all personnel for the unit had been selected and the unit became fully operational with four police investigators and one Sergeant.¹ With the assistance of the domestic violence coalition and the domestic violence prosecutor, the unit began developing its policies and procedures as well as letters, reports, and other forms. With the surplus of funds from the first grant, a part-time civilian administrative assistant was added to the unit.

Initially, the unit only conducted follow-up investigations for domestic violence cases. The unit discovered the poor quality of incident reports written by patrol officers and the lack of evidence collected at the scene. Therefore, the unit decided to expand and provide field response along with follow-up investigations. The continuation grant was written with this objective in mind.

Prior to October of 1997, the DVU operated out of an office at the Durham Police Headquarters. The unit later moved to an office at a local shopping center. Currently, the unit is renting a private house located a few miles from downtown. Moving out of the police building provided victims with a less conspicuous location to seek help.

Unit Operations

Roles are clearly defined within the unit, and there is rarely overlap in duties. The goals of the unit were to (1) decrease the number of domestic homicides in the city of Durham, (2)

¹ Hiring DVU officers was the only objective met during the first six months of the grant period.

provide adequate relief options to victims of domestic violence, and (3) increase the number of on-scene arrests and the level of documentation of domestic violence incidents. This section describes unit operations in administration, field response, and investigations.

Administration

Office hours for the DVU are Monday through Friday 8 a.m. to 5 p.m.; during off-hours, an officer is on call to respond to severe incidents of domestic violence. One investigator works 1p.m. - 9p.m. for evening telephone assistance. The unit Sergeant responds to complaints made against DVU officers, writes monthly reports, attends community and grant meetings, and conducts training.

A reorganization of the Department in July, 1999, combined with a promotional process, resulted in the promotion of six members of the Domestic Violence Unit. As this time the unit was restructured and the Corporal's position was upgraded to Lieutenant. The Lieutenant is responsible for future planning, administration (budget), and overall supervision of the unit. The Sergeant is responsible for operations; which includes scheduling, case review, case disposition (clearance), and performance appraisals.

The unit has three investigators assigned to follow up on cases. Currently the unit has two officers assigned to field response. Two more officers have been selected for the other field response positions, and these will be filled when new officers are hired and have completed their field training phase.

The DVU administrative assistant has several duties. When incident reports are received, she assigns cases to the investigators. A file is created with the intake form, the incident report, and photos taken at the scene. The information on the incident report is entered into Safetown, the domestic violence database, and given a case number. Cases are divided evenly among the investigators, and cases with repeat offenders are given to the officer who previously investigated the case. Copies of all incident reports, evidence, and other documents in the file are sent to the domestic violence prosecutor.

Field Response

Field response officers are responsible for responding to domestic violence incidents as dispatched by the Durham Emergency Communications Center. The officers are specifically

designated to respond to domestic violence related calls. On scene duties include conducting interviews (victim, offender, and witnesses), taking photographs of injuries and the crime scene, conveying options available to the victim, formulating safety plans, conducting lethality assessments (Appendix), and making referrals to community resources. Field officers also obtain and serve warrants, serve subpoenas, and ensure that children present at the scene are taken care of. DVU field officers provide valuable on-scene training for other patrol officers who aren't familiar with handling domestic violence incidents.

Investigations

Investigator duties entail reviewing incident reports, contacting victims by phone and mail to conduct follow-up interviews, taking photographs of injuries, assessing cases for additional charges, and obtaining warrants. They send letters to victims to notify them of their rights and ask them to contact the DVU. After a case is investigated, it can be cleared in the following ways:

1. Arrest—Enough evidence is found to arrest the suspect
2. Issuing a warrant
3. Dual arrest—Charges are filed against the other party involved in the incident. This practice is discouraged
4. No evidence/probable cause is found—There is no evidence to prove that a crime has been committed
5. Unknown primary aggressor
6. Contact with the victim cannot be established.

The unit supervisor reviews and signs off on all cases that are cleared. Serious felonies are referred to the Criminal Investigations Division. These include all sexual assaults, all life threatening assaults, and any incident in which a weapon is used.

Information Management

Safetown is the software used by the DVU to track domestic violence cases and is linked to the domestic violence prosecutor's office. The database runs on Windows 95 and Windows 3.1 and was created by The Software Hatchery in Minneapolis, Minnesota. There were 5,308 entries from July 1997 to April 28, 1999. All officers in the unit have access to the database and passwords are required to access the system. The database includes the following information:

Victim, Assailant, Control Number, Safetown Number, Incident Date, Date Entered, Who Entered It, Incident City, Referred By, Date Visited, and Charges Filed. The victim and assailant fields include Name, Address, Sex, Phone, Date of Birth, Race, and Relationship to other party.

Training

Training on the dynamics of domestic violence, North Carolina legal provisions for responding to domestic violence, and implementation of departmental protocols regarding domestic violence incidents occurs both as part of the Department's Police Academy training and as a component of on-going in-service training for officers. Training entails:

- An overview of the definitions and dynamics of domestic violence
- An explanation of existing North Carolina laws concerning domestic violence
- A description of up-to-date departmental policies /protocols for responding to domestic violence incidents
- Information about the nature and availability of community resources for victims and perpetrators of domestic violence, particularly the resources available through the Orange/Durham Coalition for Battered Women.

Since the DVU officers have received the above training and handle domestic violence cases, they serve as instructors in training sessions.

Community Collaboration

In early 1997, before the DVU started, a group of community members formed a coalition called the Durham Domestic Violence Council for the purpose of receiving a grant to bring in speakers for a domestic violence conference. After the conference was over, the coalition fell apart. Around the time the DVU started, a municipal court judge re-formed the coalition and renamed it the Durham Alliance Against Domestic Violence. The mission of the Alliance is to promote a domestic violence free community in Durham by developing a coordinated, multi-disciplinary approach to prevent and intervene in domestic violence incidents; to ensure the safety of victims, including children; and to hold batterers accountable for their actions. The goals of the Alliance are

- To develop a coordinated protocol beginning at the initial act of violence to the resolution of the case. All agencies will have a uniform response for service referrals to victims of domestic violence.

- To educate community and service providers and ultimately prevent the occurrence of domestic violence in our community.

The Alliance meets quarterly and currently has four subcommittees—Victims Assistance, Healthcare Response, Education/Public Awareness, and Judicial. Each subcommittee has a chairperson or co-chairs and has its own objectives, which are listed below.

Victims Assistance Team Objectives

- Address the need for more assistance to victims in civil domestic violence court.
- Increase services in shelter and other services to battered women.
- Provide outreach and services to men who are victims.
- Expand services to children, Hispanic community, and gay community.
- Develop protocol for handling domestic violence/child abuse cases.
- Facilitate sharing of information among agencies about their respective services, via brochures, cards, posters, etc.
- Determine the identification of sexual assault victims and make appropriate referrals.
- Explore the issue of possible mandatory reporting of domestic violence.

Healthcare Response Team Objectives

- Train EMS and emergency room staff to identify domestic violence victims.
- Train health department staff to identify domestic violence victims.
- Cross train magistrates on injury presentation of domestic violence victims in collaboration with Judicial Response and Education teams.

Education/Public Awareness Team Objectives

- Contact pertinent resources in the community, i.e., media, schools, companies, who could provide exposure to domestic violence issues.
- Develop a promotional project for Domestic Violence Awareness Month, October.
- Determine the availability of educational resources to distribute in the schools.

Judicial Response Team Objectives

- Develop a consistent, appropriate and coordinated response within the judicial system, including written protocols for each agency.

- Coordinate law enforcement training between the Durham Police Department, the Sheriffs Department, and the Duke University Police Department.
- Conduct domestic violence training for judicial officials, including magistrates, judges, etc.
- Coordinate with civil domestic bar regarding legal issues that impact battered women.

The DVU sergeant and the domestic violence prosecutor co-chair the Judicial Response Team. The other subcommittees have not been as active as the judicial team. However, a new coordinator has been hired to coordinate the efforts of the Alliance as well as the subcommittees. The coordinator is recruiting other agencies in the area to join the Alliance. Since many victims and their batterers receive counseling at their church, there are plans to create a congregational subcommittee. This would bring the churches together to address domestic violence and educate them on how to better serve the members of their congregation who are experiencing it.

Conclusions and Recommendations

The Durham Police Department has done an excellent job implementing and operating the DVU. The unit experienced a significant change of personnel due to the promotions and transfers; however, the new members have maintained the original focus on helping victims of domestic violence. Although the unit has been successful in some areas (victim satisfaction, increased prosecution), there are some refinements that can be made to enhance the unit as well as the overall approach to combating domestic violence in Durham.

Increase Field Response

Oftentimes a victim's decision whether or not to be cooperative is based upon her experiences with officers at the scene. The DVU in Durham has one field officer on duty each shift to respond to domestic violence calls. Of course, one officer cannot respond to every domestic call. It might be useful to have two DVU officers working each shift or during peak hours when incidents of domestic violence are more frequent. This would allow more opportunities for DVU officers to be the initial responders.

Probation Involvement

Probation is often the missing link in projects that are trying to address domestic violence in a coordinated effort and Durham is no different. Having probation in the project helps ensure that domestic violence offenders are being monitored. This will help to achieve offender accountability and victim safety. However, it is imperative that probation officers that are given this special caseload have domestic violence training and understand the cycle of violence. A few jurisdictions have developed monitoring guidelines and supervision levels specifically for domestic violence offenders.

Improved Advocacy

The partnership between the DVU and the Orange/Durham Coalition could be more effective if the advocacy component was modified. Currently, the only connection that seems to exist between the two agencies is the coordinator who was hired to work with the Alliance. Although DVU officers give victims information about the Coalition, it is always helpful to have a victim advocate available because they are specially trained to relate to victims. If an advocate from the shelter were housed with the DVU, there would always be someone available to speak with victims about their options and provide short-term counseling. The advocate could also ride with investigators when they go into the field. The relationship established between an advocate and a victim can be valuable to police and prosecutors in terms of gathering information and participating in the prosecution of offenders. This arrangement does not compromise confidentiality because advocates would only assist the officers in substantiating the facts of a case.

Coordinated Community Response

One of the Arrest Program goals is to achieve on a coordinated community response (CCR) to domestic violence. Although Durham has collaborated with some agencies, they fall short of achieving a coordinated community response to domestic violence. If arrest policies are to be effective, police, pre-trial services, prosecutors, judges, probation officers, parole officers, and victim advocates need to have a collaborative approach to enhancing the safety of victims and ensuring appropriate sanctions for offenders. The Arrest Project in Durham is weak in this

area; perhaps, the Alliance will be the vehicle for strengthening relationships among agencies and achieving this goal.

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